

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

HDI Global Insurance Company

(b) County of Residence of First Listed Plaintiff Cook
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Deasey, Mahoney & Valentini, Ltd.
1601 Market Steet, Suite 3400, Phila., PA 19103

DEFENDANTS

Silver Birch GP, LLC

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input checked="" type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
46 USC S 30701

Brief description of cause:
Breach of contract of carriage

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Engelmayer (SDNY)DOCKET NUMBER 22-md-3028 (PAE)

DATE

12/21/22

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

HDI Global Insurance Company

CIVIL ACTION

v.

Silver Birch GP, LLC

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) (X)
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>12/21/22</u>	<u>George R. Zacharkow</u>	<u>Plaintiff</u>
Date	Attorney-at-law	Attorney for HDI Global Ins. Co.
<u>215-587-9400</u>	<u>215-587-9456</u>	<u>GZacharkow@dmvlawfirm.com</u>
Telephone	FAX Number	E-Mail Address

(Civ. 660) 10/02

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

1601 Market Street, 34th Floor

Philadelphia, PA 19103

(215) 587-9400 (phone)

(215) 587-9456 (fax)

Email: GZacharkow@dmvlawfirm.com

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

SILVER BIRCH GP, LLC

NO.

510 Walnut Street

Philadelphia, Pennsylvania 19106

Defendant

RULE 7.1 DISCLOSURE STATEMENT
(Civil Action)

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Plaintiff, HDI Global

Insurance Company makes the following disclosure:

1. Is the party a non-governmental corporate party.

 X YES NO

2. If the answer to Number 1 is "yes," list below any parent corporation or state that there is no such corporation.

HDI Global Insurance Company is an Illinois domestic commercial property and casualty insurer wholly owned by HDI Global Network AG. HDI Global Network AG is owned by HDI Global SE. HDI Global SE is owned by Talanx AG. Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

3. If the answer to Number 1 is “yes,” list below any publicly held corporation that owns 10% or more of the party’s stock or state that there is no such corporation:

As identified in 2. above, Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

The undersigned party understands that under Rule 7.1 of the Federal Rules of Civil Procedure, it must promptly file a supplemental statement upon any change in the information that this statement requests.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

1601 Market Street, 34th Floor

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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

SILVER BIRCH GP, LLC

NO.

510 Walnut Street

Philadelphia, Pennsylvania 19106

Defendant

RULE 7.1 DISCLOSURE STATEMENT

(Civil Action)

Pursuant to Rule 7.1 of the Federal Rules of Civil Procedure, Plaintiff, HDI Global Insurance Company makes the following disclosure:

1. Is the party a non-governmental corporate party.

 X YES NO

2. If the answer to Number 1 is “yes,” list below any parent corporation or state that there is no such corporation.

HDI Global Insurance Company is an Illinois domestic commercial property and casualty insurer wholly owned by HDI Global Network AG. HDI Global Network AG is owned by HDI Global SE. HDI Global SE is owned by Talanx AG. Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

3. If the answer to Number 1 is “yes,” list below any publicly held corporation that owns 10% or more of the party’s stock or state that there is no such corporation:

As identified in 2. above, Talanx AG, a publicly traded company, is the ultimate parent of HDI Global Insurance Company.

The undersigned party understands that under Rule 7.1 of the Federal Rules of Civil Procedure, it must promptly file a supplemental statement upon any change in the information that this statement requests.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

DEASEY, MAHONEY & VALENTINI, LTD.

BY: George R. Zacharkow

Identification No. 32816

1601 Market Street, 34th Floor

Philadelphia, PA 19103

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Email: GZacharkow@dmvlawfirm.com

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HDI GLOBAL INSURANCE COMPANY

CIVIL ACTION

161 North Clark Street, 48th Floor

Chicago, Illinois 60601

Plaintiff

v.

SILVER BIRCH GP, LLC

NO.

510 Walnut Street

Philadelphia, Pennsylvania 19106

Defendant

COMPLAINT IN ADMIRALTY

Plaintiff, HDI Global Insurance Company, by and through its attorneys, Deasey, Mahoney & Valentini, Ltd., hereby brings this civil action against Defendant, Silver Birch GP, LLC, and in support thereof represents upon information and belief, as follows:

JURISDICTION AND VENUE

1. This is an admiralty and maritime claim for breach of a maritime contract and this Court has jurisdiction pursuant to 28 U.S.C. §1333. Plaintiff designates the claim

as an admiralty and maritime claim within the scope and meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

2. The claim involves a contract for the carriage of goods by sea in foreign trade from a port in China to a port in the United States of America and as such, it is governed by the U.S. Carriage of Goods by Sea Act, (“COGSA”), 46 U.S.C. § 30701, *et seq.* (note) and the Harter Act, 46 U.S.C. § 30702, *et seq.*, and this Court also has jurisdiction pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. The Bills of Lading issued by Defendant contain a forum selection clause providing that claims against Defendant regarding shipments of goods to the United States are required to be brought in the United States District Court for the Eastern District of Pennsylvania. (See Exhibit 1, ¶ 17.)

THE PARTIES

4. Plaintiff, HDI Global Insurance Company (hereinafter “Plaintiff” or “HDI”) was and still is a corporation organized and existing under the laws of the State of Illinois, with an address and principal place of business at 161 North Clark Street, 48th Floor, Chicago Illinois. HDI is engaged in the insurance business and in pertinent part, provides insurance for shipments carried in ocean transportation.

5. Crocs, Inc. (hereinafter “Crocs”), was and still is a corporation organized and existing under the laws of the State of Colorado with an address and principal place of business at 13601 Via Varra, Bloomfield, Colorado, and was and still is engaged in the business of purchasing, importing and distributing footwear in the United States.

6. Crocs was the purchaser and consignee of the shipments at issue and Plaintiff insured the shipments.

7. Crocs presented a claim to Plaintiff for the nondelivered shipments (as more fully described below) and appointed Plaintiff to serve as its recovery agent.

8. After investigating and adjusting the claim, Plaintiff paid Crocs the sound market value of the nondelivered shipments and became a subrogee of Crocs.

9. Also, following payment of the insurance claim Crocs assigned the recovery rights for the claim to Plaintiff.

10. Defendant, Silver Birch GP, LLC (hereinafter “Silver Birch”), was and still is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, with an office and place of business located at 510 Walnut Street, Philadelphia, Pennsylvania, and was a non-vessel owning common carrier (NVOCC) who issued Bills of Lading for the shipments at issue. (See Exhibit 1.)

11. Plaintiff brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the shipments and consignments at issue, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

12. Crocs, and any and all other parties in interest, have duly performed all valid conditions precedent to the contracts of carriage on their part to be performed and all conditions precedent to recovery under the identified Bills of Lading have occurred or have been performed by Crocs and/or its predecessors or successors in title, or have been waived or otherwise excused.

13. Timely and consecutive extensions of suit time were obtained from Silver Birch and this action is being filed within the agreed extension period, which runs to September 30, 2023. Silver Birch also obtained back to back extensions of suit time from

the ocean carrier with respect to its claim against them.

RELEVANT FACTS

14. Sometime prior to November 19, 2020, shipments of footwear stuffed into four containers (hereinafter the “Shipments”) were booked with Silver Birch for ocean carriage from the Port of Yantian, China to the Port of Long Beach, California.

15. Silver Birch elected to transport the Shipments aboard the containership M/V ONE APUS (hereinafter the “Vessel”).

16. On or about November 19, 2020, the Shipments, consisting of 3,261 cartons of footwear, then being in good order and condition, were loaded aboard the Vessel.

17. On or about November 19, 2020, Silver Birch issued the following two Bills of Lading, acknowledging receipt of the Shipments on board the Vessel for the agreed carriage to the Port of Long Beach, California:

- a. Bill of Lading No. CSZE0105163
 - i. Container No. KKFU8059750 -- 873 cartons
 - ii. Container No. NYKU4811031 -- 727 cartons
 - iii. Container No. ONEU0347022 -- 726 cartons
- b. Bill of Lading No. CSZE0105171
 - i. Container No. GESU6328795 -- 935 cartons

(See Exhibit 1.)

18. Correspondingly, Silver Birch received the following two Master Bills of Lading from the ocean carrier acknowledging receipt of the Shipments on board the Vessel for the agreed carriage to the Port of Long Beach, California: Bill of Lading No.

ONEYSZPAJ8879901 and Bill of Lading No. ONEYSZPAJ8879900.

19. The M/V ONE APUS departed the Port of Yantian, China on or about November 19, 2020, with the Shipments on board, destined for the Port of Long Beach.

20. During the voyage the stow of containers on deck shifted and collapsed with many of them going overboard.

21. Thereafter, the Vessel diverted to Kobe, Japan and never continued the voyage to Long Beach.

22. The Shipments were lost overboard and were not delivered to the consignee at the Port of Long Beach.

23. The sound market value of the Shipments was One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest, and costs. Plaintiff reserves the right to revise this amount.

COUNT I
(Breach of Contract)

24. Plaintiff incorporates by reference the averments contained in paragraphs 1 – 23, inclusive, with the same force and effect as if fully set forth herein.

25. Defendant Silver Birch contracted to transport and deliver the Shipments from the Port of Yantian to the Port of Long Beach in the same quantity, good order and condition as when received by it and/or its agents and/or representatives and/or designees at the load port, as evidenced by the Bills of Lading attached hereto as Exhibit 1.

26. Defendant Silver Birch directly, and/or by and through the agents and/or representatives and/or designees it selected to carry out its responsibilities and for whom it is responsible, breached its contractual and statutory duties to exercise due diligence

to ensure that the Vessel was seaworthy and cargo-worthy and fit to safely transport the Shipments through the known and reasonably expected conditions to be encountered during the voyage, to outfit the Vessel with competent officers and crew to navigate her and ensure that the Shipments and other cargo were properly loaded, stowed, and secured aboard the Vessel; and to deliver the Shipments at the agreed destination in the same quantity, good order and condition as when received.

27. The loss of the Shipments was not caused by any act or omission on the part of Plaintiff's subrogor or those for whom it may be responsible, or by its predecessors or successors in title, but instead was caused by the inadequacy and unseaworthiness of the Vessel and the violation of Defendant's duties and obligations as a common carrier by water for hire under the applicable statutes, and/or private carrier by water for hire, and the breach of Defendant's contracts of carriage and any other applicable contracts, including specifically the Bills of Lading attached hereto as Exhibit 1.

28. By reason of Defendant's breach of its contracts of carriage and other agreements with Plaintiff's subrogor and/or other parties in interest, and/or the inadequacy and unseaworthiness of the M/V ONE APUS, and/or the failure of Defendant, and/or the agents and/or representatives and/or designees for whom it is responsible, to comply with applicable laws and regulations, contractual obligations, and/or customs and trade practice, and/or to properly care for the Shipments, Plaintiff as subrogee and assignee of Crocs, has sustained damages in the amount of One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest and costs.

WHEREFORE, Plaintiff, HDI Global Insurance Company, respectfully requests that this Honorable Court enter judgment in its favor and against Defendant Silver Birch GP, LLC, for the damages as aforesaid, plus prejudgment interest and costs, and that the Court grant such other and further relief to Plaintiff as in law and justice it may be entitled to receive.

COUNT II
(Bailment)

29. Plaintiff incorporates by reference the averments contained in paragraphs 1 – 23, inclusive, with the same force and effect as if fully set forth herein.

30. At all times material hereto Defendant Silver Birch was a bailee for hire.

31. Sometime prior to November 19, 2020, Defendant Silver Birch agreed to accept the Shipments at the Port of Yantian, China and deliver them to Crocs at the Port of Long Beach, California.

32. On or about November 19, 2020, Defendant Silver Birch through its selected and appointed agents and/or representatives and/or designees and/or others for whom it is vicariously liable, received the Shipments at the Port of Yantian, China and thereafter exercised control over the Shipments.

33. Defendant Silver Birch thereafter delivered the Shipments to the Vessel, its owner and/or operator, and/or others acting on their behalf, to conduct the ocean carriage and deliver the shipments at the Port of Long Beach, California.

34. Defendant Silver Birch confirmed its receipt of the Shipments by issuing the Bills of Lading attached hereto as Exhibit 1 and the ocean carrier confirmed its receipt of the Shipments by issuing Master Bill of Lading Nos. ONEYSZPAJ8879901

and ONEYSZPAJ8879900.

35. The Shipment was to be delivered to Plaintiff's subrogor at the Port of Long Beach.

36. Defendant Silver Birch never delivered the Shipment to Plaintiff's subrogor at the Port of Long Beach as agreed and never delivered the Shipment at any other location.

37. Defendant Silver Birch breached its duty as a bailee by failing to redeliver the Shipment when and where agreed and requested.

38. As a direct and proximate result of Defendant Silver Birch's breach of its duty as a bailee, Plaintiff as subrogee and assignee of Crocs has sustained damages in the amount of One Million One Hundred Forty-Four Thousand Fifty-Three Dollars (\$1,144,053.00), exclusive of prejudgment interest and costs.

WHEREFORE, Plaintiff, HDI Global Insurance Company, respectfully requests that this Honorable Court enter judgment in its favor and against Defendant Silver Birch GP, LLC, for the damages as aforesaid, plus prejudgment interest and costs, and that the Court grant such other and further relief to Plaintiff as in law and justice it may be entitled to receive.

DEASEY, MAHONEY & VALENTINI, LTD.

BY: /s/ George R. Zacharow
George R. Zacharkow (GRZ 7099)
Attorneys for Plaintiff

Dated: December 21, 2022

EXHIBIT 1

Silver Birch GP, LLC

SHIPPER (Principal or Seller-licensee and address) EVERVAN SHUANGFENG FOOTWEAR CO LTD. ON BEHALF OF EVA WORLDWIDE TRADING CO LTD. TECHNOLOGY INDUSTRY ZONE, ECONOMIC& DEVELOPMENT DISTRICT SHUANGFENG COUNTY HUNAN, CHINA		B/L Number CSZSE0105163		DATE OF ISSUE 19 NOV 2020	
		EXPORT REFERENCES/FORWARDING AGENT (Reference) Shipper Ref : Consignee Ref : PO Ref : Job Ref # : CSZSE0105163			
CONSIGNEE (Non-Negotiable unless consigned to order) CROCS, INC. 13601 VIA VARRA BROOMFIELD CO 80020 UNITED STATES PH: 303 848-7629 (IRS# 20-2164234-00)		POINT AND COUNTRY OF ORIGIN CHINA			
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address) VANDERGRIFF INC 180 E. OCEAN BLVD STE 270 LONG BEACH, CA, 90802 562.624.3000 EXT. 7808 CROCS@VANDEGRIFTINC.COM, LGBDOCS@VANDEGRIFTINC.COM		DELIVERY AGENT AT DESTINATION BDP INTERNATIONAL INC 100 CONCORD ROAD ASTON, PA 19014 ASTON.SILVERBIRCH@BDPINT.COM			
FEEDER VESSEL		PLACE OF RECEIPT YANTIAN			
EXPORT CARRIER (Vessel, voyage, & flag) ONE APUS V.006E		PORT OF LOADING YANTIAN			
PORT OF DISCHARGE LONG BEACH, CA		PLACE OF DELIVERY LONG BEACH, CA			
MARKS AND NUMBERS	NO of PKGS	DESCRIPTION OF PACKAGES & GOODS PARTICULARS FURNISHED BY SHIPPERS		GROSS WEIGHT	MEASUREMENT
KKFU8059750 /CNBD84357		/40'HC /CY/CY /873 CTNS /		4,732.614 KGS /	66.007 CBM
NYKU4811031 /CNBC71985		/40'HC /CY/CY /727 CTNS /		3,319.620 KGS /	65.952 CBM
ONEU0347022 /CNBC76836		/40'HC /CY/CY /726 CTNS /		3,844.774 KGS /	62.111 CBM
SHIPPER'S LOAD & COUNT & SEAL S.T.C. : -					
MARKS & NOS. & DESCRIPTION OF					
GOODS AS PER LIST ATTACHED.					
		2,326 CTNS		11,897.008 KGS	194.070 CBM
THIS SHIPMENT DOES NOT CONTAIN WOOD PACKAGING MATERIAL. EXPRESS BILL OF LADING FREIGHT COLLECT SHIPPED ON BOARD :19 NOV 2020 Total : THREE (3X40'HC) CONTAINER(S) ONLY					
** Page 1 of 2 **					
FREIGHT RATES, CHARGES, WEIGHTS AND/OR MEASUREMENT SUBJECT TO CORRECTIONS				Received by the Carrier the Goods, Packages or Containers said to be as specified above and in apparent good order and condition, unless otherwise stated, to be transacted in such places as provided herein and subject to all the terms and conditions appearing on front and reverse side of this Bill of Lading to which the Shipper agrees by accepting this Bill of Lading. The description and particulars of the Goods, Packages or Containers and their weight, measure, quantity, condition, contents and value, as stated above are furnished by the Shipper, and Carrier shall have no responsibility or liability regarding such information. See paragraph 11 on the reverse side of this Bill of Lading as to weight, Packages and Particulars as to the Goods.	
				IN WITNESS WHEREOF, 3 original Bills of Lading have been signed if not otherwise stated before, one of which being accomplished, I certify, if any, to be void if required by the Carrier, one (1) original Bill of Lading must be surrendered duly endorsed in exchange for the Goods or delivery order.	
				For And On behalf of BDP INTERNATIONAL LTD. (CHINA), SHENZHEN BRANCH	
				AS AGENT FOR THE CARRIER Silver Birch GP, LLC	

Limitation on Carrier's Liability (Shipper's Ad Valorem Option): The Carrier shall not be liable for any loss or damage to or in connection with the transportation of the Goods in an amount exceeding US \$500 per Package or customary freight unit or Container, as provided on the reverse side to the extent and value of such goods have been declared by the Shipper before shipment and entered below in this Bill of Lading and the Carrier's ad valorem freight charge paid. Such declaration of value shall not, however, be conclusive on the Carrier for purposes of determining the extent of the Carrier's liability. If the value of the Goods exceeds US \$500 per Package or customary freight unit or Container, the Shipper must so indicate such value in this Bill of Lading before and such additional limit will be assumed by the Carrier only upon payment of the Carrier's ad valorem charge.

Bill of Lading attachment Page 2 of 2.

(CSZSE0105163)

SHIPPER'S LOAD & COUNT & SEAL S.T.C. :-

KKFU8059750

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

873 4,732.614 KGS 66.007 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971191,
4500983095,4500983096,
4501001913,4501001919,
4501022833.
HS CODE:640299

NYKU4811031

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

727 3,319.620 KGS 65.952 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971193.
HS CODE:640299

ONEU0347022

FROM: TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

726 3,844.774 KGS 62.111 CBM
CTNS FOOTWEAR(WOMEN'S SHOES)
PO NUMBER:4500971190,
4500971193,4500986085,
4500986086,4501001912,
4501001914,4501001915,
4501001916,4501001917,
4501001918,4501004029.
HS CODE:640299

NOTIFY PARTY 2
DAMCO DISTRIBUTION SERVICE
12801 EXCELSIOR DR.
SANTA FE SPRINGS, CA 90670
USA
PHONE (1) 213-514-0091

=====

2,326	CTNS
=====	=====

=====

11,897.008KGS	194.070	CBM
=====	=====	=====

END OF LISTING...

Silver Birch GP, LLC

SHIPPER (Principal or Seller-licensee and address) DAMCO O/B FREETREND TECHNOLOGY (SHEN ZHEN) CO., LTD NO. 322, YUAN HU ROAD, ZHANG-BEI INDUSTRIAL DISTRICT, XIN-LIAN COMMUNITY, LONG-GANG ZONE, SHENZHEN CITY, GUANGDONG PROVINCE, CHINA		B/L Number CSZSE0105171		DATE OF ISSUE 19 NOV 2020	
CONSIGNEE (Non-Negotiable unless consigned to order) CROCS, INC. 13601 VIA VARRA BROOMFIELD CO 80020 UNITED STATES PH: 303 848-7629 (IRS# 20-2164234-00)		EXPORT REFERENCES/FORWARDING AGENT (Reference) Shipper Ref : Consignee Ref : PO Ref : Job Ref # : CSZSE0105171			
		POINT AND COUNTRY OF ORIGIN CHINA			
NOTIFY PARTY/INTERMEDIATE CONSIGNEE (Name and address) VANDERGRIFF INC 180 E. OCEAN BLVD STE 270 LONG BEACH, CA, 90802 562.624.3000 EXT. 7808 CROCS@VANDEGRIFTINC.COM, LGBDOCS@VANDEGRIFTINC.COM		DELIVERY AGENT AT DESTINATION BDP INTERNATIONAL INC 100 CONCORD ROAD ASTON, PA 19014 ASTON.SILVERBIRCH@BDPINT.COM			
FEEDER VESSEL		PLACE OF RECEIPT YANTIAN			
EXPORT CARRIER (Vessel, voyage, & flag) ONE APUS V.006E		PORT OF LOADING YANTIAN			
PORT OF DISCHARGE LONG BEACH, CA		PLACE OF DELIVERY LONG BEACH, CA			
MARKS AND NUMBERS	NO of PKGS	DESCRIPTION OF PACKAGES & GOODS PARTICULARS FURNISHED BY SHIPPERS	GROSS WEIGHT	MEASUREMENT	
GESU6328795 /CNAU13153		/40'HC /CY/CY /935 CTNS /	5,165.710 KGS /	65.284 CBM	
SHIPPER'S LOAD & COUNT & SEAL S.T.C. : -					
MARKS & NOS. & DESCRIPTION OF GOODS AS PER LIST ATTACHED.					
		935 CTNS	5,165.710 KGS	65.284 CBM	
THIS SHIPMENT DOES NOT CONTAIN WOOD PACKAGING MATERIAL.					
EXPRESS BILL OF LADING					
FREIGHT COLLECT					
SHIPPED ON BOARD : 19 NOV 2020					
Total : ONE (1X40'HC) CONTAINER(S) ONLY					
** Page 1 of 2 **					
FREIGHT RATES, CHARGES, WEIGHTS AND/OR MEASUREMENT SUBJECT TO CORRECTIONS			<p>Received by the Carrier the Goods, Packages or Containers said to be as specified above and in apparent good order and condition unless otherwise stated. To be transported to each place as provided herein and subject to all the terms and conditions appearing on front and reverse side of this Bill of Lading in which the Shipper agrees by accepting this Bill of Lading. The description and particulars of the Goods, Packages or Containers and the weight, measure, quantity, condition, contents and value thereof as stated above are limited by the Shipper, and Carrier shall have no responsibility or liability regarding same. See paragraph 11 on the reverse side of this Bill of Lading as to overweight Packages and Paragraph 8 as to Dangerous Goods.</p> <p>IN WITNESS WHEREOF, 3 original Bills of Lading have been signed and delivered as stated below, one of which being accomplished, if others, if any, to be void. If required by the Carrier, one (1) original Bill of Lading must be surrendered duly endorsed in exchange for all Goods or delivery order.</p> <p>For And On behalf of BDP INTERNATIONAL LTD. (CHINA), SHENZHEN BRANCH</p> <p>AS AGENT FOR THE CARRIER Silver Birch GP, LLC</p>		

Limitation on Carrier's Liability/Shipper's Ad Valorem Option: The Carrier shall in no event be or become liable for any loss or damage to or in connection with the transportation of the Goods in an amount exceeding US \$500 per Package or customary freight unit or Container as provided on the reverse side to the value and value of such goods have been declared by the Shipper before shipment and posted below in this Bill of Lading and the Carrier's ad valorem freight charge paid. Such declaration of value shall not, however, be conclusive on the Carrier for purposes of determining the extent of the Carrier's liability. Shipper desires to have a maximum in excess of said US \$500 per Package or customary freight unit or Container as any other applicable limitation. The Shipper must so state such value in this Bill of Lading before and such additional details will be obtained by the Carrier only upon payment of the Carrier's handling charge.

Bill of Lading attachment Page 2 of 2.

(CSZSE0105171)

SHIPPER'S LOAD & COUNT & SEAL S.T.C. :-

GESU6328795

FROM:
TO:
CPO:
DESC:
SKU:
QUANTITY:
CARTON:

935
CTNS

FOOTWEAR
CHARMS
HTS CODE: 6402993165,
6402993177, 6402998061,
6402999065, 6404193960,
7117907500.

5,165.710 KGS 65.284 CBM

PO LIST SEE ATTACHMENT

NOTIFY PARTY2
DAMCO DISTRIBUTION SERVICE
12801 EXCELSIOR DR.
SANTA FE SPRINGS, CA 90670
USA
PHONE (1) 213-514-0091

935

CTNS

5,165.710 KGS 65.284 CBM

END OF LISTING..

